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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,110	01/14/2004	Kennth Sharp	375.1032PAT	2933

33369 7590 01/27/2005

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EXAMINER

GREEN, BRIAN

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,110

Applicant(s)

SHARP, KENNTH

Examiner

Brian K. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because on line 3 the word "invention" is used which is improper. On line 19, "slits" should apparently be "slit". The abstract contains more than 150 words which is improper. Correction is required. See MPEP § 608.01(b).

Claim Objections

Claims 1-11 are objected to because of the following informalities: In claim 1, line 17, "the slits" should apparently be "the slit" since the applicant defines a single slit on line 11 of claim 1. In claim 4, line 4, "the formed slit" should apparently be "the slit" since there is no antecedent basis for "the formed slit". In claim 5, line 10, "for" should be "from". Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 3, "or similar items" is indefinite since the metes and bounds of the claim can not be determined. In claim 1, lines 4-5 are misdescriptive since the perforation does not form the first and second tongues. The perforation along with the slit (12,24) are required to form the first and second tongues. In claim 1, line 16, there is no antecedent basis for "the other narrowing portion". In claim 3, lines 3-4, "tongue shaped portions form a wave shaped slit along the formed slit" is indefinite since this phrase suggests that the tongue shaped portions form an additional slit that is along the slit (12,24) which is inaccurate. The slit (12,24) helps to form the

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tongue shaped portions and the slit (12,24) is wave shaped. There is only one slit and not two as suggested by the applicant in claim 3. In claim 4, lines 3-4, “a continuously narrowing portion” is indefinite since it is not clear whether the “continuously narrowing portion” is the same as the narrowing portion defined in claim 1 or is an additional narrowing portion. In claim 6, line 2, there is no antecedent basis for “the first protruding portion”. In claim 6, line 3, there is no antecedent basis for “the second protruding portion”. In claim 6, lines 2-4, it is not clear whether the first narrowing outer end and the second narrowing outer end is the same as the first outer end and the second outer end defined in claim 5. In claim 7, line 3, “the second outer end” is indefinite since it is not clear whether the applicant is referring to the “second outer free end” or the “second narrowing outer end”. In claim 8, line 2, there is no antecedent basis for “the second protruding portion”. In claim 8, lines 2-3, there is no antecedent basis for “the first protruding portion”. In claim 11, lines 2-4, it is not clear whether the first and second protruding portions are the same as the narrowing portions defined in claim 1. In claim 11, lines 3-4, “second protruding portion aligned with the first protruding portion at the slit” it is not clear how the portions are “aligned” and what the applicant means by “aligned”.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3,5,6, and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Pfeffer (U.S. Patent No. 3,776,415).

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Pfeffer shows in figures 1-3 an attachment plate (23) of a flexible, bendable material (see column 2, lines 49-51) adapted for attachment to fabric, cables, flower stalks, or similar items, the attachment plate having two tongue shaped portions including a first tongue (34,36) and a second tongue (29) formed by a perforation (the horizontal opening directly above numeral 33 in figure 1, the opening in the plate adjacent to numeral 32 in fig. 1, the opening in the plate adjacent to numeral 37 in figure 1) in the plate so that a foot portion of each tongue shaped portion is held to the plate while each respective tongue shaped portion, extending from the foot portion to an outer free end of each tongue shaped portion, respectively, is outwardly bendable from the plate and the outer free ends of the tongue shaped portions are immediately adjacent to one another at a slit (the opening in the plate where the numeral 34 is located and extending all the way around to the location of numeral 29 and extending to the right side of the numeral 29 in figure 1), the outer free end of each respective tongue shaped portion has at least one narrowing portion (see figure 1 which shows that the first tongue is narrower at 36 and the second tongue 29 is narrower at the free end) so that each respective narrowing portion is adapted to at least partially overlap the other narrowing portion at the slit. In regard to claim 3, as best understood, the slit is considered to be wave-shaped since it goes down (from the location of numeral 34, fig. 1) then back up (to the numeral 29 in fig. 1) and then back down (past the numeral 29 in fig. 1). In regard to claim 6, Pfeffer shows in figure 1 that the first and second tongues each have a narrowing outer end. In regard to claim 8, Pfeffer shows in figure 1 that the protruding portions (outer ends) overlap. In regard to claim 9, Pfeffer shows in figure 1 that the tongue portions extend in opposite directions. In regard to claim 10, the plate is made from a flexible and bendable material so the outer ends are capable of being bent into any position as desired. In

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regard to claim 11, it is not clear how the applicant's protruding portions are aligned, as best understood, the protruding portions (outer ends) of Pfeffer are considered to be aligned since they are arranged in a similar manner as the applicant's protruding portions.

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Painsith (U.S. Patent No. 6,216,377).

Painsith shows in figures 5-10 an attachment plate (10') of a flexible, bendable material (see column 5, lines 45-60, column 7, lines 10-24) adapted for attachment to fabric, cables, flower stalks, or similar items, the attachment plate having two tongue shaped portions including a first tongue (54,56,54) and a second tongue (44) formed by a perforation (40,42,48,50,51) in the plate so that a foot portion of each tongue shaped portion is held to the plate while each respective tongue shaped portion, extending from the foot portion to an outer free end of each tongue shaped portion, respectively, is outwardly bendable from the plate and the outer free ends of the tongue shaped portions are immediately adjacent to one another at a slit (51), the outer free end (first tongue includes two outer free ends just below numerals 63 in fig. 5 and the second tongue includes outer free end adjacent the lead line for numeral 68 in fig. 5) of each respective tongue shaped portion has at least one narrowing portion (see figure 5 which shows that the first tongue includes two narrower portions adjacent the outer ends and the second tongue includes one narrower portion adjacent the outer end) so that each respective narrowing portion is adapted to at least partially overlap the other narrowing portion at the slit. In regard to claim 2, the first tongue portion includes two narrowing portions (fig. 5, the two portions directly below the two numerals 68) and the second tongue portion includes two narrowing portions (the portion

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adjacent the lead line for numeral 68 and the narrow portion extending upwardly directly above the numeral 51 in fig. 5). In regard to claim 3, as best understood, the slit (51) is considered to be wave-shaped since it goes up and down. In regard to claim 4, the slit (51) of Painsith includes a substantially straight, diagonal extension (any of the straight portions of slit 51 can be considered a diagonal extension). In regard to claim 6, Painsith shows in figure 5 that the first and second tongues each have a narrowing outer end. In regard to claim 7, Painsith shows in figure 5 that the first narrowing end of the first tongue extends into a first cavity of the second tongue. In regard to claim 8, Painsith shows in figure 5 that the protruding portions (outer ends) overlap. In regard to claim 9, Painsith shows in figure 5 that the tongue portions extend in opposite directions. In regard to claim 10, the plate is made from a flexible and bendable material so the outer ends are capable of being bent into any position as desired. In regard to claim 11, it is not clear how the applicant's protruding portions are aligned, as best understood, the protruding portions (outer ends) of Painsith are considered to be aligned since they arranged in a similar manner as the applicant's protruding portions.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Greenberger, Hubbard, and Fan teach the use of clip type attachment devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (703) 308-1011. The examiner can normally be reached on M-F 7am-3:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BRIAN K. GREEN
PRIMARY EXAMINER

Bkg
Jan. 24, 2005